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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,513	11/14/2003	Giuseppe Paventi	C048213/0003	9973

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EXAMINER

NEWTON, JARED W

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/713,513	Applicant(s) PAVENTI, GIUSEPPE	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "decorative slab covering, " "steel rod-like member extending through said horizontally extending tubular steel hanging rod and comprising ends extending through said horizontally extending mounting sockets in said vertically extending supporting framework," and "force applying securing members mateably mountable on the ends of said steel like rod members for providing a structural steel supporting framework between said decorative slabs and said hanging rod " must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 130 and 132. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

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examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In the correction of the drawings, no new matter should be added to any part of the application.

Specification

4. The abstract of the disclosure is objected to because it contains the misspellings: "vertically" on line 2, and "supportg" in line 4. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: "vertically" and "supportg" in the Summary of the Invention are both misspelled, "106." in the Detailed Description of the Preferred Embodiments contains improper punctuation, and "capcityhanging" in the second paragraph of the Detailed Description of the Preferred Embodiments is misspelled. Appropriate correction is required. See MPEP § 608.01(b).

Claim Objections

6. Claims 1 and 7-10 are objected to because of the following informalities: The word "tieing" is misspelled. Appropriate correction is required. Claim 1 is objected to because of the following informality: The word "based" should be "base". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The following aspects of claim 1 are not described in the specification and drawings in such a way so as to enable one skilled in the art to make and use them: A "decorative slab covering" as claimed in line 5 of claim 1 and line 2 of claim 2, "an open box-like supporting structure" as claimed in line 20 of claim 1 and line 6 of claim 4 and line 4 of claim 6, and a means for "force applying securing members mateably mountable on the ends of said steel like rod members" as claimed in line 14 of claim 1.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,326,637 to James in view of U.S. Patent No. 4,282,977 to Di Lorenzo.

James discloses a hang-rack assembly 10 comprising a framework 12 made from four upright angle members 22 interconnected at upper and lower ends by transverse members 24 and 26; said framework extending vertically in a criss-crossed configuration and being capable of supporting both vertical and horizontal loads 44 (see FIG. 1). James further discloses a slab-like end wall 16 that is removably securable to the framework base structure 12 (see FIG. 1). James further discloses a horizontal and vertical mounting extending from traverse member 26 (column 4, line 1). James further discloses a hang-rod 18 having member 32 which extends horizontally through outer member 30 (see FIG. 1). James further discloses a horizontally extending tie rod 20 having member 38 which extends horizontally through outer member 36 (see FIG. 1); said tie rod comprising a bracket 34 as a means for tying tie rod to said framework 12; said tie rod 20 further extending parallel to said hang rod 18.

Di Lorenzo discloses a joining device 1 comprising a pair of slab standards or panels 3, each of which extends vertically upward (see FIG. 1). Di Lorenzo further discloses a horizontal tubular dowel rod 7 extending between said slabs (see FIG. 3), and extending through mounting apertures or sockets 5. Di Lorenzo further discloses said dowel rod comprising a shoulder abutment 11 and threaded ends 9 that are mated with keepers 15 so as to form flush, force applied contact with the slab surfaces 3 (see FIG. 3). Di Lorenzo further discloses the use of wood and metal (column 7, line 58).

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11. In regard to claim 1, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the structural supporting framework 12 as disclosed by James with the slab standards or panels 3 to Di Lorenzo. The motivation for said incorporation would be to cover said structural supporting framework with the slabs so as to show a more aesthetically pleasing assembly. It would have been further obvious to one of ordinary skill in the art at the time of the invention to secure said framework to said slabs via the vertically and horizontally extending mounting means as disclosed by James. The motivation for securing the assembly by these means would be to allow for a secured mounting between both horizontal and vertical components of the assembly. It would have been further obvious to one of ordinary skill in the art at the time of the invention to incorporate the horizontally extending dowel rod 7 and mounting sockets 5 as disclosed by Di Lorenzo with the telescoping hang-rod 18 as disclosed by James so that said dowel rod extends through said hang-rod, and is threadably securable to said framework 12. The motivation for the incorporation would be to combine the dowel rod and hang-rod with the framework in a secure fashion. It would have been further obvious to one of ordinary skill in the art at the time of the invention to combine said framework, said hang-rod, the tie rod as disclosed by James, and said slabs or panels to Di Lorenzo, in order to provide an open box like assembly. The motivation for said combination would be to provide a structurally strong and balanced hanging assembly.

12. In regard to claim 2, James in view of Di Lorenzo discloses a rack comprising all of the limitations of claim 1. It would have been obvious to one of ordinary skill in the art

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at the time of the invention to compose the slabs 3 as disclosed by Di Lorenzo or a different material than the framework 12 as disclosed by James. The motivation for using different materials would be to use more suitable materials for specific aspects of the assembly.

13. In regard to claim 3, James in view of Di Lorenzo discloses a rack comprising all of the limitations of claim 2. Di Lorenzo further discloses the use of wood in his assembly (column 7, line 58). It would have been obvious to one of ordinary skill in the art at the time of the invention to use wood for the slab portion of the assembly. The motivation for using wood would be to utilize a less expensive yet strong material.

14. In regard to claim 4, James in view of Di Lorenzo discloses a rack comprising all of the limitations of claim 1. Di Lorenzo further discloses a plurality of horizontally extending structural dowel rods 7 spaced apart from said horizontal tubular dowel rod (see FIG. 1), as well as two base rods 7 (see FIG. 1A) structurally tied to said slab standards 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to structurally tie said framework as disclosed by James to said plurality of horizontally extending, parallel hanging and base dowel rods as disclosed by Di Lorenzo, thus forming an open box like supporting structure. The motivation for structurally tying said framework to said rods would be to provide a structurally strong and balanced hanging assembly.

15. In regard to claims 5 and 6, James in view of Di Lorenzo discloses a rack comprising all of the limitations of claims 1 and 4. James further discloses a horizontal base rod comprising a mount 34 to a vertical plate 26 (see FIG. 1). It would have been

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obvious to one of ordinary skill in the art at the time of the invention to incorporate said mount as disclosed by James, as well as the mounting apertures or sockets 5 as disclosed by Di Lorenzo into the framework and slab assembly as disclosed by James in view of Di Lorenzo, thus forming an open box like supporting structure. The motivation for said incorporation would be to tie said base rods to said framework in a securable fashion.

16. In regard to claims 7-10, James in view of Di Lorenzo discloses a rack comprising all of the limitations of claims 5 and 6. Di Lorenzo further discloses threaded ends 9 on the hanging dowel rods 7. James further discloses the use of a bracket 34 to connect said tie rod 20 to said vertical plate 26. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the threaded ends of the hanging dowel rods as disclosed by Di Lorenzo to attach said dowel rods to the framework structure as disclosed by James. The motivation for using the threaded means would be to produce a simple, yet structurally sound attachment. It would have been further obvious to one of ordinary skill in the art at the time of the invention to use any means of securing said tie rod as disclosed by James to the framework structure, including a weld. The motivation for using various securing means would be to produce various attachments used for various materials.

17. It is noted that the recital "integrally connected high capacity load bearing decorative retail merchandise floor display rack" in line 21 of claim 1 is deemed functional language, and thus not considered as claimed subject matter.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWN


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